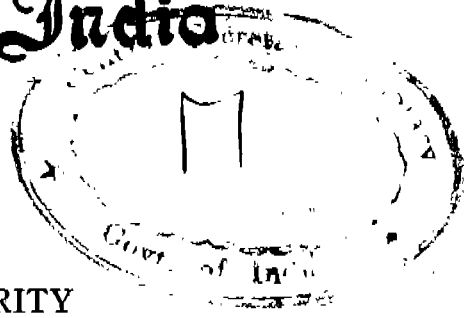


भारत का राजपत्र **The Gazette of India**

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the December, 1974:—

I

BILL No. LVIII OF 1974

A Bill further to amend the Press Council Act, 1965.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Press Council (Second Amendment) Act, 1974.

(2) It shall come into force on the 30th day of December, 1974.

2. In section 5 of the Press Council Act, 1965, for sub-section (1A), the following sub-section shall be substituted, namely:—

(1A) Notwithstanding the expiry of the period of office specified in sub-section (1), the Chairman and other members holding office as such on the 29th day of December, 1974 shall continue to hold such office until the appointed day:

Provided that nothing in this sub-section shall apply to a member—

(a) who ceases to be a member before the appointed day, by reason of the provisions of sub-section (2); or

(b) whose term of office expires before the appointed day, by reason of the provisions of sub-section (3); or

Short
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Amend-
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section
5.

34 of 1965.

(c) who is deemed to have vacated his seat before the appointed day, by reason of the provisions of sub-section (3A);
or

(d) who is deemed to have vacated his office before the appointed day, by reason of the provisions of sub-section (4).

Explanation.—In this sub-section, “appointed day” means the 31st day of December, 1975, or, where the Central Government, by notification in the Official Gazette, appoints an earlier date, such earlier date.’.

STATEMENT OF OBJECTS AND REASONS

In pursuance of the recommendations of the Committee of Members of Parliament on the Press Council, the Press Council Act, 1965, was amended in 1970 to provide, *inter alia*, for the setting up of a Nominating Committee consisting of the Chairman of the Council of States, the Chief Justice of India and the Speaker of the House of the People for nominating the Chairman and other members of the Press Council in accordance with the procedure laid down in that Act. On the basis of the nominations made by that Committee, the Press Council was reconstituted on 1st October, 1970. There were certain criticisms about the composition of the Press Council as so reconstituted. The members of the Nominating Committee felt that it would not be desirable to expose their respective offices to any possible criticism and that it would be advisable to save their offices from being drawn into political or other controversies. They, therefore, suggested that the Act should be amended to provide for a different machinery for the selection of the Chairman and members of the Press Council. Pending the devising of such machinery, the Press Council Act was amended last year and in June this year to extend the term of office of the Chairman and members of the Press Council up to 31st December, 1974.

2. An informal Committee of Members of Parliament was set up for devising a new machinery for nominating the Chairman and other members of the Press Council and to suggest suitable amendments to the Press Council Act. The Committee has not finished its deliberations and it will take some more time for concrete proposals to be formulated. As the extended term of the Chairman and members of the Press Council will expire on 31st December, 1974, it is proposed to extend the term of office of the Chairman and other members of the Press Council up to 31st December, 1975. If the proposals for amendment of the Act are formulated and the new Press Council is constituted earlier than 31st December, 1975, it is proposed to specify an earlier date by notification for the termination of the term of office of the existing Chairman and members of the Press Council.

3. The Bill seeks to achieve the aforesaid object.

I. K. GUJRAL,

NEW DELHI,

The 16th December, 1974.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to substitute sub-section (1A) of section 5 of the Press Council Act, 1965 by a new sub-section so as to extend the term of office of the Chairman and members of the Press Council up to 31st December, 1975, or where the Central Government appoints an earlier date, up to such date. A budget provision of Rs. 3,89,000 has already been made towards the Press Council of India for 1974-75. The expenditure of Rs. 3,89,000 would be incurred during the current financial year. A provision of Rs. 4,07,000 has been recommended for inclusion in the Budget Estimates for 1975-76. This includes the expenditure to be incurred by the Press Council during the period up to 31st December, 1975. This expenditure would have been incurred even if the same or some other Chairman or members had been appointed or re-appointed to the respective offices.

2. There will be no non-recurring expenditure.

II

BILL NO. LIX OF 1974

A Bill further to amend the Air Force Act, 1950 and the Army Act, 1950.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Air Force and Army Laws (Amendment) Act, 1974.

Short
title.

2. In the Air Force Act, 1950,—

Amend-
ment of
Act 48
of 1950.

(a) in section 4,—

(i) in clause (xvii), the words “, other than the State of Jammu and Kashmir” shall be omitted;

(ii) in clause (xxx), for the words “all words”, the words and brackets ‘all words (except the word “India”)’ shall be substituted;

(b) the *Explanation* below section 72 shall be omitted.

3. In the Army Act, 1950,—

Amend-
ment of
Act 48
of 1950.

(a) in section 3,—

(i) in clause (viii), the words “, other than the State of Jammu and Kashmir” shall be omitted;

(ii) in clause (xxv), for the words “all words”, the words and brackets ‘all words (except the word “India”)’ shall be substituted;

(b) the *Explanation* below section 70 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

In the interests of discipline and morale of the Armed Forces and also for ensuring the continued availability of the members of the Armed Forces for Service duties, it is essential that as far as possible criminal charges against the members of the Forces are investigated expeditiously and tried by courts-martial. Hence the Air Force Act, 1950 and the Army Act, 1950 provide for trial by courts-martial thereunder of persons subject to those Acts not only for offences created directly by those Acts but also for "civil offences" or offences under other laws.

2. The Air Force Act, 1950 and the Army Act, 1950 contain exactly similar provisions as to civil offences. According to these provisions, civil offence means an offence triable by a court of ordinary criminal justice in any part of India except the State of Jammu and Kashmir. A person subject to the Army Act or the Air Force Act who commits a civil offence at any place in or beyond India is liable to be tried by a court-martial for the same. However, where such offence is an offence of murder or of culpable homicide not amounting to murder or of rape in relation to a person not subject to naval, military or air force law, it cannot be tried by a court-martial, unless the person committing the offence was on active service at the time of the commission of the offence or the offence was committed at any place outside India or at a frontier post specified by the Central Government by notification in that behalf. For the purposes of these provisions as to trial of civil offences, the expression "India" has been defined in both the Acts so as to exclude the State of Jammu and Kashmir.

3. A Full Bench of the Jammu and Kashmir High Court has held recently that as an offence against the Ranbir Penal Code in force in that State cannot be tried by a court of ordinary criminal justice in any part of India other than that State, offences under that Code committed by Service personnel do not qualify as civil offences and cannot, therefore, be tried by courts-martial. The Court rejected the argument that such offences when committed by Service personnel can be treated also as offences under the Indian Penal Code and tried by courts-martial and over-ruled its earlier decisions based on such argument.

4. It is, therefore, proposed to amend the Air Force Act, 1950 and the Army Act, 1950 to ensure that offences triable by courts of ordinary criminal justice in Jammu and Kashmir also qualify as civil offences to the same extent as offences triable by courts of ordinary criminal justice in other parts of India and that the provisions as to civil offences contained in these Acts do not make any distinction between the State of Jammu and Kashmir and the rest of India.

5. The Bill seeks to achieve the above objects.

SWARAN SINGH.

NEW DELHI;

The 18th December, 1974.

III

BILL No. LXI OF 1974

A Bill further to amend the All-India Services Act, 1951.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the All-India Services (Amendment) Act, 1974. Short title.

61 of 1951.

2. In section 3 of the All-India Services Act, 1951 (hereinafter referred to as the principal Act), after sub-section (1), the following sub-section shall be inserted, namely:— Amendment of section 3.

“(1A) The power to make rules conferred by this section shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.”.

3. No rule made, or purporting to have been made, with retrospective effect, under section 3 of the principal Act before the commencement of this Act shall be deemed to be invalid or ever to have been invalid merely on the ground that such rule was made with retrospective effect and accordingly every such rule and any action taken or thing done thereunder shall be as valid and effective as if the provisions of section 3 of the principal Act, as amended by this Act, were in force at all material times when such rule was made or action or thing was taken or done. Validation.

STATEMENT OF OBJECTS AND REASONS

In service matters occasions arise when it becomes an inescapable necessity to amend or make rules with retrospective effect. An instance in point is the implementation of the decisions of the Government on the recommendations of the Third Central Pay Commission.

2. Section 3 of the All-India Services Act, 1951 which empowers the Central Government to make rules for the regulation of recruitment and the conditions of service of persons appointed to an all-India Service does not in terms permit the making of the rules with retrospective effect. In view of the opinion tendered by the Attorney-General in 1969 in connection with a point raised by the Public Accounts Committee regarding an exemption notification issued with retrospective effect under the Central Excises and Salt Act, 1944 and the subsequent decisions of the Supreme Court, particularly the decision in *Hukam Chand Vs. Union of India* [(1973) II S.C.W.R. 129], unless the section is suitably amended, it would not be permissible to make any rules thereunder with retrospective effect. It is, therefore, proposed to amend the section so as to empower the Central Government to make rules with retrospective effect subject to the safeguard that no rules shall be made retrospectively so as to prejudicially affect the interests of any person who may be governed by such rules. This safeguard is in accordance with the directions of the Committee on Subordinate Legislation. It is also proposed to validate the rules which have been made in the past with retrospective effect.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

The 19th December, 1974.

OM MEHTA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend section 3 of the All-India Services Act, 1951 to enable the Central Government to make rules thereunder for the regulation of the recruitment and the conditions of service of persons appointed to all-India Services with retrospective effect also, whilst clause 3 of the Bill seeks to validate rules made or purported to have been made in the past with retrospective effect under the said sub-section. The provisions of clause 2 will involve expenditure from the Consolidated Fund of India in case any rules are made with retrospective effect for effecting any increase in salaries, allowances, etc. Likewise, to the extent clause 3 of the Bill has the effect of validating rules made in the past with retrospective effect for increasing salaries, allowances, etc., it would involve expenditure from the Consolidated Fund of India.

2. It is not possible to visualise at this stage the expenditure which may be involved on account of the provisions of clause 2 of the Bill as that will depend upon the nature and effect of the rules, if any, which may have to be made with retrospective effect in the future.

3. So far as clause 3 of the Bill is concerned, it may be mentioned that it would have the effect, *inter alia*, of validating the amendments made to the All-India Services (Death-cum-Retirement Benefits) Rules, 1958, the Indian Administrative Service (Pay) Rules, 1954, the Indian Police Service (Pay) Rules, 1954 and the Indian Forest Service (Pay) Rules, 1968, *vide* Cabinet-Secretariat, Department of Personnel and Administrative Reforms Notifications Nos. 15/9/74-AIS(II) dated the 21st June, 1974, 28/7/74-AIS(II)-A, 28/10/74-AIS(II)-A and 16/17(2)/74-AIS(IV), dated the 15th November, 1974, respectively, which have been made with retrospective effect recently to implement the decisions of the Government on the recommendations of the Third Pay Commission. These rules involve additional expenditure from the Consolidated Fund of India on account of payment of arrears of pay from the 1st January, 1973 to the members of the all-India Services who are on deputation with the Government of India. The expenditure on this account would be of the order of Rs. 20.79 lakhs as follows:—

Name of Service	Amount of expenditure (in lakhs of Rs.) on account of arrears of difference in pay for the period from the 1st January, 1973 to the 15th November, 1974
Indian Administrative Service	3.63
Indian Police Service	15.76
Indian Forest Service	1.40
TOTAL	20.79

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend section 3 of the All-India Services Act, 1951 to empower the Central Government to make rules thereunder for the regulation of the recruitment and the conditions of service of persons appointed to all-India Services with retrospective effect also. Such a power is necessary to give effect to decisions for ameliorating with retrospective effect the conditions of service of persons governed by the rules. Further it has been made clear that the power cannot be exercised so as to prejudicially affect the interests of any person who may be governed by the rules. In the circumstances the delegation of legislative power is of normal character.

IV

BILL No. LX OF 1974.

*A Bill to amend the Former Secretary of State Service Officers
(Conditions of Service) Act, 1972.*

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Former Secretary of State Service Officers (Conditions of Service) Amendment Act, 1974.

Short
title.

59 of 1972.

2. In the Former Secretary of State Service Officers (Conditions of Service) Act, 1972 (hereinafter referred to as the principal Act), in section 8,—

Amend-
ment of
section 8.

(a) in sub-section (1), after clause (c), the following provisos and *Explanations* shall be inserted, and shall be deemed always to have been inserted, namely:—

‘Provided that in relation to every former Secretary of State Service officer who, having been in service on the 1st day of February, 1921, and domiciled in India on that date, is entitled immediately before the appointed day to claim his pension computed in the rupee equivalent of the amount fixed in sterling at a rate of exchange of rupees fifteen to a pound sterling, clause (c) shall have effect as if for the words “thirteen and one-third”, the word “fifteen” were substituted:

Provided further that every former Secretary of State Service officer whose pension was expressed in sterling or in respect of whose pension a fixed sterling minimum was applicable, and who, immediately before the appointed day, is a foreigner having taken up permanent residence outside India, shall, so long as

he continues to be a foreigner permanently residing outside India, be allowed to convert the annuity of rupees thirteen thousand three hundred and thirty-three and one-third or the annuity actually payable to him in rupees, whichever is less, into pound sterling at the rate of rupees thirteen and one-third to a pound sterling, and the annuity so converted into pound sterling shall be paid outside India.

Explanation 1.—Nothing contained in the foregoing proviso shall be deemed to entitle any former Secretary of State Service officer to claim conversion of amounts representing the annuity or the commuted value thereof, already drawn in rupees before the commencement of the Former Secretary of State Service Officers (Conditions of Service) Amendment Act, 1974, into pound sterling.

Explanation 2.—In this sub-section, the expression “foreigner” means a person who is not a citizen of India;’

(b) in sub-section (2), after the words “every former Secretary of State Service officer”, the brackets, words and figure “[not being an officer to whom the first proviso or the second proviso to sub-section (1) applies]” shall be inserted and shall be deemed always to have been inserted.

3. After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. (1) If the Central Government is satisfied that the conditions of service as respects any matter applicable to, or in relation to, any class or category of former Secretary of State Service officers under section 6, 7 or 8 or as respects any benefits by way of compensation for the increase in cost of living or any other reason, have become less favourable than those applicable to or in relation to any corresponding class or category of other officers of the Indian Administrative Service or the Indian Police Service or, as the case may be, any comparable service, it may, notwithstanding anything contained in those sections, by general or special order and subject to such conditions and restrictions (including conditions as to refund, adjustment or recovery), as may be specified therein, make such provisions as it may deem fit for securing, so far as may be, parity in such cases.

(2) Any order under sub-section (1) may be made so as to have retrospective effect.

(3) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.”

Insertion of new section 10A.

Power of Central Government to make orders in certain cases to ensure parity.

STATEMENT OF OBJECTS AND REASONS

The Former Secretary of State Service Officers (Conditions of Service) Act, 1972 (59 of 1972) was passed with a view to bringing the conditions of service of the former Secretary of State Service officers on par with those of the other officers of corresponding services and expressly to make provisions as to premature retirement applicable to the aforesaid officers retrospectively. Since then in the light of the Third Pay Commission's Report certain changes in the matter of retirement and retirement benefits have been effected, *vis-a-vis*, the officers of the Indian Administrative, Indian Police or other comparable Central Services thereby conferring on them more advantageous terms in the matter of retirement and retirement benefits. As the possibility of similar inequitable situations arising in future also cannot be ruled out and as the intention underlying the principal Act is not to place any class of former Secretary of State Service officers in a less favourable position than officers of a comparable class, it seems appropriate to empower the Central Government to make suitable provisions for removing such inequities as and when they arise.

2. Section 8 of the principal Act relating to pensions payable to former Secretary of State Service officers has been found to result in undue hardship in the case of two numerically small categories of officers. It appears there are a few officers, now in the age group about 78—93 who were in service on the 1st day of February, 1921 and who could claim pension computed in the rupee equivalent of the amount fixed in sterling at a rate of exchange of Rs. 15 to a pound sterling. By virtue of the provisions of section 8, these officers would be able to claim pension only at the lower rate of Rs. 13-1/3 to the pound sterling and also be liable to refund the difference between the pensions paid to them in the past and the amount which would have been payable to them if the calculation had been made at the rate of exchange of Rs. 13-1/3 to the pound sterling. The intention underlying section 8 was never to reduce the amount of pension. In the second place, there are a few foreigners who have taken up permanent residence outside India prior to the commencement of the principal Act and it would be causing a hardship to them if pension is not paid to them in sterling, particularly when several of their colleagues who chose not to continue to serve in our country at the time of Independence enjoy the privilege of drawing their pensions in sterling. It has thus become necessary to amend section 8 of the principal Act to remove the hardships caused thereby in the case of the aforementioned categories of officers.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

OM MEHTA.

The 19th December, 1974.

FINANCIAL MEMORANDUM

Sub-clause (a) of clause 3 of the Bill seeks to add, *inter-alia*, two provisos to sub-section (1) of section 8 of the principal Act. By virtue of the first of these provisos, former Secretary of State Service officers who were in service on the first day of February, 1921 and who fulfil the other conditions mentioned in the proviso would be entitled to pension in the rupee equivalent of the amount fixed in sterling at a rate of exchange of Rs. 15 to a pound sterling instead of Rs. 13-1/3 to a pound sterling as provided at present. This proviso will have retrospective effect from the commencement of the principal Act. Of the 9 persons who will be benefited by this proviso, one is already known to be dead and the others are very old with ages ranging from 78 years to 93 years. Even if all of them are entitled to full pension, the recurring annual expenditure (that is to say the difference between the aggregate of the pension calculated at the rate of Rs. 15 per pound sterling and at the rate of Rs. 13-1/3 per pound sterling) on this account will not exceed Rs. 13,500. In addition as the provision is being given retrospective effect and the liability of these officers under the principal Act as originally enacted to refund the difference between the pension drawn by them in the past at the rate of Rs. 15 per pound sterling and the pension which they would have drawn at the rate of Rs. 13-1/3 per pound sterling will be taken away. This difference amounts on the aggregate to Rs. 3,10,000. Any refund on this account will in the nature of things be of amounts recovered earlier. In this view of the matter, it can be said, that there will be no net out-go from the Consolidated Fund of India, so far as this amount is concerned.

2. The second proviso proposed to be added to sub-section (1) of section 8 will have the effect of conferring a right on the former Secretary of State Service officers whose pension was expressed in sterling or in respect of whose pension a fixed sterling minimum was applicable and who were, immediately before the commencement of the principal Act and who continue to be, foreigners permanently residing outside India, a right to convert their annuity into sterling at the rate of Rs. 13-1/3 to a pound sterling. The officers who would be entitled to the benefit of this provision would even now be able to convert their pension at the prevailing rate of exchange (Rs. 19). In view thereof it is estimated that the additional expenditure in sterling in respect of these officers would be about £1,110 per annum in all. In addition as the proviso is being given retrospective effect, there will be a further non-recurring expenditure of about £4,700 being the difference between the pension entitlement as now provided in the proviso under consideration and the pension which they would have got otherwise.

3. Clause 3 of the Bill seeks to insert a new section 10A in the principal Act to empower the Central Government to make orders in relation to any class or category of former Secretary of State Service officers for the purpose of ensuring that their conditions of service as respects pension, retirement benefits, benefits by way of compensation in regard to cost of living, etc., do not become less favourable than those available to or in relation to any comparable class or category of officers. The power is proposed to be used to bring about parity between the former

Secretary of State Service officers and other officers with regard to the benefits which the other officers will be deriving by reason of the decision of the Government on the recommendations of the Third Pay Commission. The expenditure or gain on this account is likely to be as stated below:—

	Gain	Expenditure
(a) On account of the recommendation as to pension subject to the modification that the I.C.S. members availing of the same will be required to give-up Rs. 6,000 which is credited to their Provident Fund.	Non-recurring reimbursement of about Rs. 3,60,000.	Rs. 90,000 per annum.
(b) Recommendation as to <i>ad-hoc</i> and other relief to pensioners of Rs. 25 per month with effect from 1-8-1973 and Rs. 50 per month with effect from 1-1-1974.		Rs. 4,51,000 per annum and a non-recurring expenditure of Rs. 60,000 by way of arrears.

More than half of the expenditure mentioned in the above table will be met from the Consolidated Funds of the States and the balance will be met from the Consolidated Fund of India.

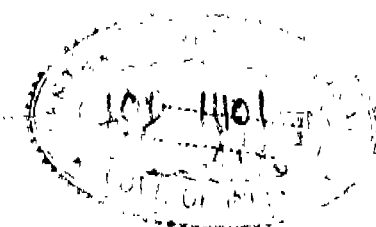
4. It is not possible to estimate the other expenditure which will be involved by reason of the provisions of the proposed section 10A as that will depend upon the other orders which it may become necessary to make in future under that section.

5. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to insert a new section 10A in the principal Act for the purpose of conferring powers on the Central Government to make orders in relation to any class or category of former Secretary of State Service officers for the purpose of ensuring that their conditions of service as respects matters provided in section 6, 7 or 8 of the principal Act or as respects any benefits by way of compensation for the increase in the cost of living or for any other reason do not become less favourable than those applicable to or in relation to any corresponding class or category of other officers of the Indian Administrative Service or the Indian Police Service or, as the case may be, any comparable service. It may be mentioned in this connection that if the decisions of the Central Government on the recommendations of the Third Pay Commission are not implemented in respect of the I.C.S. members of the Indian Administrative Service and implemented in the case of the other members of that Service, the conditions of service of the I.C.S. members would become less favourable in certain respects. The possibility of such situations arising in future also cannot be ruled out. In view thereof, it is necessary, in the interests of elasticity, to secure to the Central Government a power to issue orders for maintaining parity between the former Secretary of State Service officers and other officers of comparable status.

2. The matters which may have to be provided for by orders under the proposed section 10A relate to matters of detail which may change from time to time. The guideline with reference to which such orders may be made has been specified out in the section. Every order made under the section has to be laid before each House of Parliament. The delegation of legislative power is, therefore, of a normal character.



B. N. BANERJEE,
Secretary-General.